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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,997	06/28/2005	Michael Suissa	123541	5928
25944	7590	09/08/2005	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			MORGAN, EILEEN P	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/531,997

Applicant(s)

SUISSA ET AL.

Examiner

Eileen P. Morgan

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Period for Reply
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4-20-05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 2, 4, and 5, the terms 'intended to' and 'designed to be' render the claim indefinite. Line 3, 'to be treated' is unclear. How or with what is the surface to be treated? Claim 1 is an aggregation of elements not structurally related. How are the 'device', 'handpiece', and 'cartridge' structurally related? Line 6, what does 'it' refer to? Line 7, what does 'comprising' refer to? The cartridge or the handpiece? Cl. 6, 'the longitudinal axis' lacks antecedent basis. What does 'which' refer to? What narrows? The reservoir or the transverse section? What does 'downwards' mean? Cl. 7, what does the withdrawing tube 'withdraw'? What is open? What does 'its' refer to? 'Upper end' lacks antecedent basis. Cl. 9, line 3, what does 'which' refer to? Cl. 11 is unclear. What is a 'connection endpiece'? Of what? What does 'shutting it off' mean? What does 'for connecting' refer to? What is a withdrawing pipe withdrawing? What is it structurally related to? What does 'therein' refer to? Cl. 12, what does 'it' refer to? What is the relation of the base station to the device? Handpiece? Cl. 13, 'in anything' is vague and indefinite. 'other than a determined position' is unclear. What 'position' is determined? Cl. 14, how does the handpiece 'accept' the cartridge? Cl. 15 is a method

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of making claim dependent on an apparatus claim (made by moulding...). This does not further limit the apparatus. Cl. 16 'the withdrawing tube', 'the base station', lack antecedent basis. 'this sleeve' is unclear. How is the sleeve 'able to slide'? 'being capable of moving'? What does 'it' (line 4) refer to? How does it 'close off an opening'? Prevent powder from flowing out of what? Line 5, what does 'it' refer to? How does it collaborate with base station. There is not enough structure recited to understand the claimed invention. Cl. 17 has similar problems as cl. 16. Cl. 19 is a method of making claim dependent on an apparatus claim (made by moulding...). This does not further limit the apparatus. 'With one wall of the reservoir' is unclear. 'the orifice' lacks proper antecedence. Cl. 20 is unclear. How does it collaborate with 'the other part'? what does 'so as to offer a possibility' mean? 'the relative position' lacks antecedence. Cl. 21, what does 'it' refer to? What does 'when the cartridge is in place' mean? What is this place? The terms 'particularly' are unclear. The terms 'or' used twice make the claim completely unclear. 'the base station' lacks antecedence. What does 'the latter' refer to? What does 'overmoulded' mean? By dipping or spraying what? Cl. 22, 'the sealing piece' lacks antecedence. What is the lip or groove related to? For what? What does 'intended' mean? 'this sealing relief' lacks antecedence. The term 'pressing' is reciting a method step, not further limiting the apparatus. Cls. 23 and 24 are cartridge claims dependent on an apparatus claim, and do not further limit the device. Cl. 23 is redundant of cl. 1. Cl. 24, what is cereal flour? How is powder 'based' on this?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-6, 12,13,14,22-24, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Parkin et al.-6,503,256.


Parkin discloses a micro-abrasion device comprising a first (74) reservoir having powder to be sprayed onto surface and second (76) reservoir to collect used powder, a handpiece (80) applied against surface to be treated and removable from a cartridge (70) that houses the reservoirs, wherein the two reservoirs are contiguous (each separately) and share a common wall (middle of the two) , the first reservoir narrows downwardly, as best understood, (fig. 3) , wherein the handpiece has a 'base station' (86) to accept cartridge and 'polarizing means' (threaded portion) to accept cartridge in a determined position. Cls. 23-24 do not further limit the claimed apparatus of claim 1.

Claims 7-11,15-21 are too unclear to make an art rejection or determine allowability.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eileen P. Morgan whose telephone number is 571.272.4488. The examiner can normally be reached on Monday-Thursday (Office), Friday (Work at home).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571.272.4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EILEEN P. MORGAN
PRIMARY EXAMINER

EM
September 6, 2005